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**Board Meeting – May 7, 2012**

**21<sup>st</sup> Floor – Conference Room 1**

**Present Board Members:**

- Diane McLeod, Acting Chair (DM)
- Andrew Bedar, Member (AB)
- Mark Trivett, Member (MT)
- Carol Steinberg, Member (CS)
- Myra Berloff, Massachusetts Office on Disability Designee (MB)

and

- Thomas Hopkins, Executive Director (TH)
- Kate Sutton, Program Coordinator/Clerk for Proceedings (KS)

**Members Not Present:**

- Gerald LeBlanc, Member (GL)
- Donald Lang, Chair (DL)
- Walter White, Executive Office of Public Safety Designee (WW)
- Raymond Glazier, Executive Office on Elder Affairs Designee

1) **Incoming:** Wings Over Boston, 325 Huntington Ave., Boston (V12-105)

- TH
- EXHIBIT – variance application
  - half a flight down tenant space
  - spending exceeds 30% of the value of the space
  - accessible bathrooms and seating provided, but seeking a variance for the entrance, concrete structural supports, floors are concrete slabs
  - 6-7 steps down from the street

MB - looks like they built a change in level in the pictures of the front of the building

*MB - grant on the condition that buzzer and intercom and menu at the exterior and that all of the advertising include notice of buzzer and intercom and lack of access, based on tech. infeasibility*

*MT - Second - carries*

2) Incoming: Melrose Wakefield Hospital, 585 Lebanon St., Melrose (V12-115)

TH - previously before the Board as an advisory opinion  
- sweep angle of doors is halfway up the ramp, seeking relief for the landing dimensions  
- EXHIBIT – variance application  
- there are other doorways further down the hallway, making full compliance technologically infeasible

*MB - grant based on tech. infeasibility*

*AB - second – carries*

3) Discussion: Abbott Mill Building, Westford

TH - historic mill converted into housing, seeking temporary CO in the interim of the review of a variance by the elevator board for the maintenance of the existing building  
- seeking 45 day window to get the matter with the elevator resolved  
- request sent by the Building Inspector

MB - who is being impacted by the elevator not functioning

*AB - accept the issuance of the temporary CO, for 45 days*

*MT - second – MT and AB in favor, MB and CS opposed, motion carries with DM vote*

- Donald Lang, Chair (DL) – now present

4) Incoming: Michaels Store, Porter Square, 1-55 White St., Cambridge (V12-144)

TH - EXHIBIT – application  
- building contains 2 tenant spaces, Michaels will occupy basement level, tenant entries, one contains elevator, the other is escalators into Michaels; distance between the two entrances is 50 feet  
- work performed issue  
- planning signage directing people to the signage

*CS - grant, on the condition that signage installed as proposed and the elevator is open at all times that the store is open*

*MB - second – carries*

5) Incoming: Amsler Campus Center, Mass. College of Art, 375 Church St., North Adams (V12-108)

TH - EXHIBIT – application

- reconstruction of an existing stair
- stair rebuilt leads to other stairs

*CS - grant*

*DM - second - carries*

6) Discussion: With All My Heart Childcare, 41 Chipawah Rd, East Freetown (V11-112)

- TH
- April 26, 2012 received engineer stamped set of plans for the building
  - in talking with the Building Inspector there are still other issues, that are beyond the scope of the Board
  - they have met the requirements of the Board's Decision

*CS - lift the stop work order*

*MT - second – carries*

- Gerald LeBlanc, Member (GL) – Now Present

7) Discussion: Old Spencer Products Building, 64 Main St., Spencer (V08-075)

- TH
- decision issued in 2010, with \$1,000.00 fine one-time fine, and deadlines for compliance in 2011 to complete the entrance ramp and toilet rooms
  - case has sat and the Board has received nothing from the Petitioners
  - scheduled a fine hearing for August of 2012, fine still hasn't been paid

- MB
- owe \$1,000.00 plus compounded interest (can be determined by the State Comptroller's Office)

*GL - schedule a fine hearing, to have the owners make a case as to why the building shouldn't be closed immediately for*

*CS - second - carries*

8) Incoming: Osaka Japanese Steak House, 14 Green St., Brookline (V12-104)

- TH
- EXHIBIT – variance application
  - creating restaurant on 2 floors, want to use a lift, vertical wheelchair, seeking relief for platform size
  - provide 34" x 53"

*MB - grant*

*DM - second – carries*

9) Discussion: 5 Senses School, 1381 Main St., Reading (V08-119)

- TH
- May 2<sup>nd</sup> email that loans in place to finish the ramp, hoping to have the work done in the summer

10) Discussion: Youth with a Mission, 374 Broadway, Somerville (V11-188)

- TH
- May 1, 2012 amendment
  - they are now proposing a lift to serve the first to the second floor
  - providing men's and women's suites and unisex accessible bathroom at the second floor
  - one request for the winder stair
  - the use of the lift
  - a powder room bathroom, noncompliant; providing fully compliant first floor

*MB - grant as proposed*

*MB - occupancy permit contingent upon completing accessible features*

*MT - second - carries*

11) Discussion: Steve Madden Store, 118 Newbury St., Boston (V11-240)

- TH
- letter from owner/attorney regarding the T Mobile agreement, should have the agreement
  - seeking to have the lift completed by November 1, 2012
  - legal agreement completed by May 21, 2012
  - no mention of policy for the back door

*MB - accept the agreement and policy by May 21, 2012; and lift by November 1, 2012*

*CS - second - carries*

*CS - expedite*

*DM - second – carries*

12) Incoming: Boston Tea Party Museum and Ships, 306 Congress St., Boston (V12-113)

- TH
- EXHIBIT – variance application
  - 3.2, spending over \$6 million
  - two 2-story buildings, a floating barge, and a ship
  - elevator in the building, with ramps attached to the buildings to make them all accessible
  - issue is 20.1, relief from having to provide an accessible routes to the lower levels of the ships (will provide video narratives in the decks below)

*DM - grant for all 3 as proposed, based on tech. infeasibility*

*MT - second – carries*

- TH
- next variance is for ramp slope (24.2.1), because of tides, ramp cannot maintain slopes

*MB - grant as proposed, based on tech. infeasibility*

*GL - second – carries with CS opposed*

13) Incoming: Restoration Hardware and a Restaurant, 234 Berkley St., Boston (V12-103)

- TH - EXHIBIT – variance application
- proposing two pavilion style entrances
  - Boylston Street side restaurant, Newbury Street side will have drive-up drop-off with enclosed lift
  - an accessible entrance to each space, want to leave Berkley Street entrance intact, and will upgrade handrails

CS - *grant as proposed, provided path of travel all the way around the building*

DM - *second – carries*

- TH - Petitioner seeks relief to maintain existing winder stairs and install compliant handrails

DM - *grant*

CS - *Second – carries*

14) Incoming Discussion: Computer Store, Karate Studio on 2<sup>nd</sup> Floor, 267 Main St., Townsend (V12-058)

- TH - EXHIBIT - variance application
- second floor was previously vacant, remodeling the building
  - seeking relief from vertical access to the second floor
  - proposing to install stairway incline lift for \$53,000.00 originally
  - continued for more information
  - vertical wheelchair lift, \$20,000.00
  - second floor space is 952 square feet
  - seeking no vertical access to the second floor

MB - *grant for this use only, based on exc. cost without benefit*

MT - *second – carries*

15) Incoming Discussion: Moodz Emporium, 2 Trapelo Rd., Belmont (V12-072)

- TH - denied variance for the lack of access at the front entrance, required that entrance at rear be made accessible and portable ramp be used in the interim
- Petitioner requested hearing, could not be till September; should the portable ramp still be used?

MB - *present photographic verification that portable ramp is provided based on the previously issued decision*

DM - *second – carries*

MB - *expedite decision*

DM - *second – carries*

MB - *photographic verification by next meeting*

DM - *second - carries*

16) Incoming: Wheelock Elementary School, 17 Elm St., Medfield (V12-101)

TH - EXHIBIT – variance application  
- motion to maintain the key in the existing vertical lift; cite homeland security requirements that all areas of the school must be secured

MB - *Deny*

GL - *second – carries*

17) Incoming: Inglesia de Christo Missionera, 45 Salisbury St., New Bedford (V12-111)

TH - EXHIBIT – variance application  
- basement space worship hall  
- change in use jurisdiction  
- petitioner proposes to install wheelchair lift to basement space, which is the only occupied space in the building  
- seeking permission to install an incline lift on the stair

CS - *grant as proposed*

DM - *Second - carries*

18) Incoming: Inglesia de Christo Missionera, 45 Salisbury St., New Bedford (V12-111) – Continue

GL - *have lift installed by November 11, 2012*

MB - *second – carries*

19) Incoming Discussion: Casbah Restaurant, 80 Jefferson St., Winthrop (V11-007)

TH - a masonry wall was determined by the Building Inspector to be immediately replaced, involved an entrance  
- sought relief for the front entrance on the condition that rear entrance is accessible  
- restaurant was gutted  
- variance now required from plumbing board to be able to provide an accessible unisex toilet room

MB - can't make a determination on 248 CMR, allowed under 521 CMR, so no authority to hold the work up since compliant with 521 CMR

DM - whatever toilets are provided have to comply

DL - it may comply with 521 CMR, but no jurisdiction over other codes

CS - *lift the stop work order, based on the fact that the toilet room plan complies with 521 CMR, with the understanding that further approval from other agencies is required*

DM - *second – carries*

20) Discussion: Questions on Cases of the day

CS - Miller Hall, what phase of construction?

TH - unsure, will have to ask

TH - the issue here is why it was prioritized the way it was

- MB - delay was 18 months from decision
- CS - understand interpretation of the regulation, but concern is with the language of the code  
 TH - the Board has the right to interpret the code
- MB - first drawing showed an area of rescue assistance
- TH - yes, and then built without an exterior area of rescue assistance  
 - interior area of rescue assistance provided in a plan, but then asked to not be shown to the Board
- DL - the Board does have the right to interpret the codes
- MB - and acknowledged the required need for the area of rescue assistance  
 - window constructed incorrectly in the first place; wouldn't it be easier to just lower the window
- TH - commission supports the variance request
- MB - commission said raise the sidewalk a half inch to meet the tolerances of the requirements for the the window
- TH - large submittal of door hardware proposal , submitted on May 3, 2012
- CS - there is an ambiguity in the language, but then go to intent and then that is where the interpretation goes to the governing board  
 - and also they submitted the plans showing the area of rescue assistance at the are in question, that was not built that way  
 - would building it now be technologically infeasible?
- TH - the only issue is the property line  
 - required to have the exterior area and was on the plans as proposed
- DL - question about concord, any new information

21) Hearing: Miller Hall, Fitchburg State University, 230 Highland Avenue, Fitchburg (V12-032)

- DL - called to order at 11:00 a.m.  
 - introduce the Board

Gregg Yanchenko, Helene Karl Architects (GY)

Eric Hansen, Director of Capital Planning for Fitchburg State University (EH)

Jay Bry, Vice President of Admin and Finance for Fitchburg State University (JB)

- DL - all sworn in  
 - EXHIBIT 1 – AAB1-18
- GY - multi-phase project, in the middle of construction on Phase 2, Phase 1 completed last year, Phase 3 will be done next year  
 - all new construction has been brought into full compliance with the AAB  
 - due to funding for the project

- the original building is about 1909, originally a dorm, converted into faculty offices, student lounge and conference room

- Phase 3 includes the installation of an elevator for vertical circulation within the building
- trying to accelerate the work where possible
- elevator pit already created in Phase 2
- other issue is existing stairs, proposing compliant handrails and nosings
- Fitchburg is committed into bringing the building into full compliance, just seeking time to complete the work over the next 12-18 months, based on lack of funding

DL - picture of elevator pit, EXHIBIT 2

GL - where is the funding coming from

JB - this is why the work is being phased, if we don't get state appropriations to fund the project, then the board for the school will fund the work

AB - how far is the elevator design?

GY - 100% complete, in the process of being approved by the Board

MB - question with the timeline, why vertical access was part of the final phase; why not part of the first phase?

- what are the departments within the building?

JB - English faculty and Political Science faculty

- previously an old dormitory with faculty offices at the upper floors

- Political Science Office moved to the first floor, along with the English department, the first floor is accessible via an existing ramp

- timing was based on working from the third floor down; were originally proposing to only renovate the second floor; the English Department will reside on the first and second floor, with the political science moved back up to the third floor

MB - any written policy in place about accessible meeting location for inaccessible faculty offices?

- written policy for transition

JB - policy thru disability services office

MB - talking about different policy for this building

- do you have to have an appt. to meet with faculty or are the offices just open?

JB - two faculty offices at the first floor, this is where students have to go first to meet with faculty

- both offices manned with secretaries during the hours that the offices are open

CS - private meetings with professors throughout the building

JB - yes, but there will be a secretary and the chair for the department, two dedicated meeting spaces for the departments at the first floor that can be used by faculty members from upstairs to meet with students at the first floor

EH - AAB15, the room with the arch, to the right of that, there is a small break room and then two meeting rooms



- JB - those two meeting rooms are assigned to the two departments  
 - larger meeting room for campus wide meeting space use  
 - floors 2 and 3 and street level are primarily faculty offices  
 - outside a couple of faculty offices at those floors there are small lounge spaces; large lounge spaces at the first floor, that are accessible
- CS - accessible toilet room at the first floor done?  
 GY - in the process of being completed
- GY - 5-6 feet above grade; proposing removal of a window to create a new at-grade entrance during Phase 3
- EH - existing ramp at front entrance is the current accessible entrance at the first floor
- MB - will ramp be maintained?  
 JB - proposal is to maintain the ramp
- CS - *grant the time variance for the installation of the compliant elevator, to be completed by August 31, 2013, based on the testimony that the access is in place at the first floor*  
 DM - *second – carries*

22) Incoming: St. Clouds Condo Building, 565 Tremont St., Boston (V12-107)

- TH - EXHIBIT – variance application  
 - historic building  
 - architect has researched a ramp on the sidewalk and an incline lift  
 - landmarks commission denied the use of the incline lift  
 - condo association denied raising the sidewalk  
 - Cambridge Trust bank proposed in this location  
 - other accessible branches in the area, closest one is on Beacon Hill  
 - separate entrance just to the bank space  
 - spending over 30% of the value of the space
- CS - no joint lobby, to make an accessible lobby area
- MB - *grant for the lack of access at this space, for this use only, provided that their literature indicates that someone from the bank is available to meet with an individual to discuss banking opportunities in an accessible location*  
 DM - *second*  
 CS - *and that the literature says that the branch is not accessible and lists the other accessible locations*  
 MB - *accept*  
 GL - *decision be recorded with the registry within 60 days*  
 MB - *accept*  
 - *Carries*

23) Discussion: Saugus Learning and Discovery Center, 286 Main St., Saugus (V07-014)

- TH - previously brought before the Board on April 23, 2012, where the Board denied the extension request  
 - she submitted more information about finances
- CS - *schedule a hearing*

*DM - second – carries*

24) Incoming Discussion: Family Dog, 286-288 Commercial St., Provincetown (V12-090)

TH - presented to the Board on April 23, 2012, based on lawyers letter stating that time variance until 2013  
- variance was granted on the condition that updates received every 6 months  
- misspoke, they were actually asking for until April 3, 2015 to comply

MB - what is on the second floor that isn't on the first floor

TH - first floor will have area where people can view the items being sold on the second floor and employees will be able to bring items down to the first floor

TH - jurisdiction is change in use

MB - consider putting in vertical wheelchair lift or LULA prior to the 2015

*MB - schedule a hearing, need to discuss alternatives for vertical access*

*GL - second – carries*

25) Incoming Discussion: Saint Nicholas Orthodox Church, 1304 North St., Pittsfield (V11-245)

TH - currently a hearing scheduled for May 21<sup>st</sup> at 11 a.m.  
- Chapel building  
- 44' x 59' 11"  
- conducted a site visit, took pictures on the inside  
- parish of 40 people  
- ramp to the main entrance, seeking variance for the lack of access to altar  
- when they first came before the Board they were arguing Church vs. State  
- they do have areas of the altar that are only for the priests, but there are areas of the altar that are accessed by the parishioners  
- just received a letter from the church, now proposing to use a portable ramp based on the needs of the parish

*MB - accept the use of a portable ramp, on the condition that the petitioners send photographs, store the ramp on site, and put notice in the newsletter and/or website that the ramp is available. Plans for the portable ramp submitted within 30 days receipt of the decision of the Board. No need for photographs or written policy until the ramp design reviewed and approved.*

*GL - second – carries*

*DM - cancel the hearing*

*CS - second - carries*

26) Incoming Discussion: St. Nicholas Church, 1304 North St., Pittsfield (V11-245)

TH - in Notice of Action, ordered no occupancy permit be issued until variance be adjudicated  
- need to vote to remove the no occupancy permit based on the previous decision of the Board

*MB - allow temporary CO*

*MT - second – carries*

27) Hearing: The Bradford Mill, 23-53 Bradford St., Concord (V11-053)

DM - called to order at 1:05 p.m. (DL not present)  
- introduce the Board

John Boynton, Bradford Street, LLC (JB)

Mark Dempsey, AAB Compliance Officer (MD)

DM - both sworn in  
- Exhibit 1 – AAB1-26

MD - goes back to March of 2011  
- a hearing was scheduled, it was requested beyond the 30 days, but granted to be held on November 28, 2011  
- the hearing was rescheduled for January 9, 2012, where the Petitioner did not appear, therefore Fine hearing was scheduled

JB - became the owner of the buildings 2 years ago in March  
- they were in very bad condition, made the decision to renovate  
- buildings were out of compliance with all codes, built in 1906  
- been working with the building department, stepped into the project to help out brother  
- worked with the building inspector and was advised by him to request 10 years to comply  
- expect to have the work done by the end of the calendar year, with all access done by August of 2012  
- a few photos of before and after for the building

- DL present again-

DL - accept the pictures as EXHIBIT 2

JB - construction done on most of the buildings on the site  
- have built 7 accessible bathrooms at the common areas, 9 already in place, for a total of 16 accessible toilet rooms  
- reason that didn't come to the hearing in January of 2012, because building inspector said no more C of O's for the building until access issues resolved  
- applied in October for an addition 8-10 months to comply, received approval from the Board for the shortened timeframe, therefore thought didn't need to appear at the hearing

DL - by August of 2012 will comply with all requirements of 521 CMR  
- does that include the elevator?

JB - yes

JB - photographs of the accessible toilet rooms

MD - did note that the flush was on the wrong side, but Petitioner has stated that the work is corrected

DM - and the barrel moved?

JB - yes

DL - accept pictures of the toilet rooms as EXHIBIT 3

JB - two elevators, each a five-stop elevator  
- plan of the elevator locations, site plan submitted

- DL - accept submittal of site plan as EXHIBIT 4
- MD - in the January 9<sup>th</sup> packet, copy of check to the elevator company
- JB - was worried about the investment of the money in the beginning, got a lot of interest from perspective tenants, then was able to fund the work
- GL - ramp in the second picture, shows ramp with handrails at only one side of the ramp  
JB - was unaware of the requirements, left the work up to the professionals
- DL - are there existing C of O's, or are the CO's issued as the work is completed
- JB - all the work that has been done, unsure of why handrails not caught
- DL - need to send pictures once the handrails corrected
- MB - AAB18, circular stair case, need a variance to maintain that stair
- JB - used to connect two floors of the same tenant space
- MB - have all of the stairs been renovated or are variances needed?
- DL - handrails, nosings, winder stairs all may need variances
- MT - EXHIBIT 4 site plan, proposed deck and then unsure of what was beyond that?  
- how do people access the deck?
- JB - does not exist yet, can't do any site work until site plan approval, the submitted plan is the proposed site plan  
- the deck will be accessible from the building, then steps down to the grade level
- MT - that will also require a variance for the lack of access at that level
- DL - need an as-built drawings to just ensure full compliance with 521 CMR
- CS - all the entrances comply?  
JB - all three entrances will not be accessible, the first floor is 4 ½ feet above grade
- CS - any public entrances that do not comply also require variances
- JB - all of the primary public entrances will comply
- CS - need to know where the inaccessible entrances and accessible entrances will be located  
- how many tenants?
- JB - some have been there for awhile, some are new  
- building 23, all the tenants have been there; with one vacant space
- CS - the tenant space with the winder stairs, what is it?  
JB - that is within The Wheelhouse, those are short term spaces, for people that work from home or telecommute

- the stair in question actually does not have the treads yet
- the space at the top of the stairway will be accessible via the main elevator
- every space is accessible via the new elevators

TH - need variance to not provide vertical access within the tenant space with the winder stairs  
 - need to submit cost estimates for creating access within this space, and show the routes through the space and the alternate route from the elevator

DL - when can you review the amendments to the variance to the application and submit the as-builts, if it can be done within the next 60 days

JB - should not be a problem

CS - *submit amended variance documentation by July 15, 2012 and additional documentation showing what work has been done thus far*

GL - *second – carries*

MT - roof deck at The Wheelhouse will be open to the tenants and accessible?

JB - yes, but not yet built

DM - *accept the August 31, 2012 deadline for the installation and inspection of the elevator*

JB - *may need an additional 30 days just to make sure complete in time*

DM - *amend to September 30, 2012, for the installation and inspection of the elevator with proof submit on or before said date*

GL - *second- carries*

DM - *no benefit for fines based on testimony and submittals*

CS - *second - carries*

28) Hearing: The Dreamland Theater, 17 South Water St., Nantucket (V12-057)

DL - called to order at 2:00 p.m., scheduled for 3 p.m.

- introduce the Board

Tom Catalano, Architect, Catalano Architects (TC)

Vernon Woodworth, AKF, Code Consultant (VW)

Genevieve Niessen, Architect, Catalano Architects (GN)

Garrett Avery, Architect, Catalano Architects (GA)

DL - all sworn in  
 - EXHIBIT 1 AAB1-89

TH - additional documents that were submitted to the Board and received on May 1, 2012  
 - have enough copies for the Board

GN - copies of what is to be presented on the presentation boards

DL - Accept the submittal of the packet as EXHIBIT 2

VW - hardware proposed for the front entrance doors

DL - in lieu of the request for the thumb latch

- Rockport model of latch

GN - front page is the order form, swapped the thumb-latch hardware with a lever hardware

*DM - based on the submittal of an order form for the lever hardware, no variance required since the hardware complies (26.11.1); comply within 60 days receipt of the decision, with visual verification to be submitted*

*MT - second – carries*

VW - proposing to modify the exterior ticket window to lower the ticket window by the installation of a shelf

DC - as a remedial action, added a wooden ticket shelf, 34 inches above the sidewalk  
- allows an area to sign slips

MT - still need a variance since not a consistent height through to the ticket seller

CS - actual built-in counter that is permanent

GN - 36” wide and 8” deep

DC - fixed dimension

*DM - accept the proposed plan for the lowered exterior shelf, and grant the variance on the condition that it is built as proposed*

*MT - second – carries*

VW - final variance is for the exterior area rescue assistance  
- intent was to comply with this portion of the code, but due to dimensional issues of construction, now limited by a width of an easement required for egress to the harbor

TC - Ch. 91 license required, and one of the contingencies was increased access to the water adjacent to the building

DL - abutter obligation for easement to the harbor

TC - the adjacent property in the process of getting development permit for the building

DL - an additional bit of side yard to provide access to the water as well  
- abutters building is built to the line?

TC - yes with a fence at the property line

MB - obligated to have how wide of a path to the water?

TC - width not specified, just specified as pedestrian access

- unsure of usage of that alleyway, only 2.43 feet in between the two building

MB - not an accessible path of travel, if obligated to maintain accessible path of travel between the buildings  
- MGL name for the egress to the harbor requirement

Patricia Roggeveen, Executive Director of the Dreamland (PR)

DL - swear in PR

DL - right of way to the water question?

- PR - directly abuts a parking lot directly behind the adjacent building  
 - building next door has no current plans to extend the building, and actually cannot due to the Ch. 91 requirements
- TC - it was a construction fence
- PR - no permanent parking at the rear of the adjacent building  
 - required to provide open space requirements, provided new pathway to the waterfront, now privately maintained
- MB - narrows to below an accessible route
- PR - the asphalt area has been repaved, also an improvement to the alley walkway to have new brick pathway, no vehicle pathway at the rear, just an open space that will be maintained
- VW - original permit drawings did show a widened area at the landing in question
- GN - AAB45 and 48, shows the originally proposed area of rescue assistance  
 - illustrates the initial layout that was presented back in March of 2010 to TH  
 - understood that the design required a variance for the layout of the area of rescue assistance
- TH - Inspector Bartlett asked the Board to review this design for the area of rescue assistance  
 - the design was approved, no need for a variance  
 - variance is required because of the current design
- TC - during that initial review designed the three different accessible seating locations and price points  
 GA - mezzanine level raise up and accessible seating location
- TH - originally the Dreamland was a movie theater, but the screen can be raised up for live performances
- PR - just upgraded the technology for the deaf and hard of hearing for the venue
- TH - have a nice letter in the file from the Disability Commission regarding this improvement that was not required but installed
- GN - onsite the contractor built the landing straight across in-line with the foundation wall
- DL - in-line dimensions on the plan  
 TC - built with 9" less than the landing required  
 - couldn't just go back to the contractor to fix the error
- TC - under time pressure, need to open soon; could possibly be done in the time  
 - do still want to make the argument that this area is not required, it can be an area of rescue assistance
- VW - "immediately adjacent to a required emergency egress", this is not a required emergency egress, so they are maintaining that there are areas of rescue assistance not directly adjacent to an emergency egress  
 - ushers are required to lead people to the areas of rescue assistance at that door, this would be solely an area of rescue assistance not a path of an egress

- TC - there will be emergency egress plan showing which way to go for accessible egress and ambulatory egress
- PR - would also be willing to provide a video before each event to show emergency egress locations  
- also do have a crowd manager for the property
- DL - ask that the 9 inches be put back on, just as an added dimension for the landing
- TH - did have a request from the Building Department to have a public showing of the building and allowed the use; but didn't happen because of lack of elevator inspection
- DM - grant the width variance for the south side accessible egress, on the condition that the crowd manager and the egress announcement is made prior to each performance*
- MB - second -*  
*- need 30" x 48" for two spaces beyond the swing of the door*
- GN - 15.7 feet, including the stair*
- DL - could reverse the swing of the door, then no issue at the landing with an auto-opener; this is Life safety, need to make sure that the proper dimensions are provided; wouldn't be an issue for the opening of the building*
- DM - withdraw the motion*

\*\*\*Raymond Glazier, Executive Office on Elder Affairs Designee – now present\*\*\*

- TC - if off, then off by an inch or two, then can mount rail on the outboard side of the structure, but that would involve the historic district commission  
- will find out the exact dimensions first and then approach the situation from there
- DM - continue to have the petitioners submit more information regarding the area of rescue assistance at the south side egress, to show that there is enough space for the two 30" x 48" beyond the swing of the door; to be submitted by May 18, 2012 at the latest*
- CS - second – carries*
- DM - allow the issuance of temporary CO or retractable CO until the issue is resolved at the 5/21/12 meeting*
- CS - second – carries with MT opposed*
- TH - AAB34, portable temporary stair to the stage  
- established that no access to the stage from within the seating area
- PR - need to discuss with the Board of Directors for the theater
- DM - more information regarding and/or variance request to be submitted to the Board by May 18, 2012*
- CS - second – carries with GL opposed*

\*\*\*Diane McLeod, Vice Chair (DM) – no longer present\*\*\*



29)Hearing: Fogo de Chao Churrascaria, 10 Huntington Ave., Boston (V12-074)

- DL - called to order at 3 p.m.  
- introduce the Board

Regina Olivieri, Shamut Design and Construction (RO)

Cliff Maillet, Fogo de Chao Churrascaria (CM)

Kennon Rayner, Architect (KR)

Dale Forester, Fogo de Chao (DF)

Craig Nicholson, Ajax Consulting (CN)

- DL - all sworn in  
- EXHIBIT 1 – AAB1-20

TH - letter from Boston Inspectional Services from Inspector George Kinkaid

- DL - accept as EXHIBIT 2

- DL - letter of non-opposition

George Kinkaid, of Inspectional Services sworn in (GK)

- CM - expanding the current Palm Steakhouse into the existing hotel corridor, atrium space and hotel corridor of the Westin Hotel  
- presently the access to the restaurant is from hotel lobby area or the hotel valet lobby  
- AAB15 shows the accessible entrance from the valet, also entrance at atrium and stair entrance off of Dartmouth Street  
- 7 feet above sidewalk level, accessible entrance from hotel lobby and valet  
- AAB18, stair entrance at Dartmouth St., with a proposed lift in that location, would also create a weatherproof structure around the lift; cost for that option in AAB11 (Option 1), \$193,388.00 for all of the required work at the existing stair  
- Option 2, is shown on AAB19, steps between sidewalk and entry level, would need to create ramp along Huntington Avenue and modify the entry doors, to create the required pull side clearance for at least one of the doors, then a lift within the atrium lobby, up 7 feet to the bar level of the restaurant  
- estimated cost for that option \$109,470.00.  
- propose to maintain the inaccessible entrance along Dartmouth St., and maintain the hotel lobby as the main accessible entrance  
- valet on Dartmouth St., would direct vehicle to covered hotel valet lobby and then enter the restaurant from there, use the same valet company as the hotel

- DL - what is the direction of travel on Huntington at that location?

- CM - yes, would go right around the building from restaurant valet to hotel valet

- DL - how will the restaurant be used, where are the patrons coming from? The neighborhood or via car

- CM - not sure of the demographic around the space

- CN - any other patrons from other locations would come thru the mall into the hotel lobby

- MB - where is the host stand from the hotel lobby

- CM - AAB20, shows route with hostess stand

- because of the 10-15 gauchos traveling thru the restaurant have wide circulation aisles thru the restaurant

- how is someone made aware of the need to go to the front entrance host stand

- CM - would hospitality agents direct people to the front hostess stand  
 - could possibly add another hostess station at that location  
 - will not be a back door, will not feel like that situation, will feel very much like a front door
- DL - elevator locations?  
 CM - series of elevators from the hotel lobby, the restaurant is below the main reception lobby level of hotels
- CS - route distance from lobby to the restaurant  
 CM - second floor lobby is very large  
 - would park where, if not using valet?  
 CM - would have to park off-site  
 - ok so if valeted car, then have to go up to the hotel lobby?  
 CM - no enter at the valet lobby, which is much smaller than the main reception lobby  
 - AAB17, valet lobby is fairly small
- DL - where is the directional signage?  
 CM - at the Dartmouth Street entrance, at the Westin (TAPE)
- CS - seems that there is a substantial benefit to having access at Dartmouth Street, but understand the costs
- RG - asking relief for 2 of the 3 entrances provided to the restaurant  
 - can see not requiring both the Dartmouth Street entrance and the corner entrance, but would like one or the other
- DL - main entrance is at Dartmouth Street, there is a lot of pedestrian traffic at this location  
 - directing people that need an accessible entrance that is so off the path of travel for the rest of the public along the street, the cost in this project of \$4,500,000.00 does not outweigh the substantial benefit  
 - this will be the largest restaurant in Back Bay, have an opportunity to recreate access to the mall entrance location
- MB - 2% of the overall cost
- DL - have to prove tech. infeasibility or excessive cost without substantial benefit
- GK - the entrance going in thru the hotel atrium; the entrance created would be a benefit to the restaurant, but unfair to have the restaurant do the work at the atrium lobby, when the owners of the building could create an elevator in this location to benefit not only the restaurant, but the hotel as well  
 - the Dartmouth St. location may create potential issues with the garage below?  
 CM - yes, the planter beam was constructed as an entire slab with the beam going thru the garage
- DL - entrance at the hotel atrium, may require that that area be brought into compliance
- MB - simply looking at creating access into the restaurant  
 - restaurant was laid out with the intention that the accessible entrance would be at the rear of the restaurant  
 - not welcoming, sending people thru a valet entrance
- CS - *deny the variances for the other two existing entrances*  
 MB - *second – carries*

- CM - since we do have an option of Option 2, of adding the ramp to the Huntington Avenue/Dartmouth Street atrium entrance
- CS - distance between the two main entrances?  
CM - about 50 feet
- CM - would prefer the interior lift installation
- MB - issue with traveling thru the bar area, plan of the bar needs to be relooked at
- CM - could easily move the bar closer to the host stand to make a wider area around the lift entrance
- DL - also take a look at recreating the front main entrance
- CS - *have the petitioners submit more detailed information regarding modifying one of the two entrances along Dartmouth Street to be made accessible; submit another proposal for the May 18, 2012;*
- GL - *second – carries*
- CS - *allow the issuance of permits for the work to progress with the understanding that no certificate of occupancy can be issued until the accessible entrance along Dartmouth Street/Huntington Ave., is created*
- RG - *second – carries*

30) Discussion: Soundings Resort, 79 Chase Ave., Dennisport (C09-150 & V11-159)

- TH - had to deal with the ramp to the beach  
- now implementing the ramp design, one at the end and one at the seawall  
- as of May 3, 2012, the ramp is 40% complete  
- some rooms rented for the season, seeking a temporary CO, until the ramp is finished, will provide balloon wheelchair, Building Inspector will give them 45 days
- MB - *allow the building official to issue temporary CO, to extend no later than July 1, 2012, by which time the ramp shall be completed*
- GL - *second – carries with CS abstaining*

31) Discussion: First Congregational Church, 148 West Main St., Millbury (V10-050)

- TH - Follow-up materials required in previous decision regarding access to the altar  
- ramp study for ramps in 3 different locations to provide access to the altar, as well as a lift study  
- 3 ramp options cost an average of \$45,000.00 and all result in loss of pews  
- lift option is \$48,000.00  
- seeking to provide no access to the altar  
- second phase will bring the facility into compliance with 521 CMR; written by a pastor with a child with cerebral palsy in September 2011, resubmitted again (read into the record by TH)
- MB - would like to know what is up there beyond the pastor's seat
- MB - *continue for further information to be submitted within 30 days receipt of the decision, for how the altar is used*
- MT - *second – carries*

\*\*\*Gerald LeBlanc – No longer present\*\*\*

32) Incoming: Franklin High School, 218 Oak St., Franklin (V12-118)

- TH - EXHIBIT 1 – variance application  
- seeking 2 variances for handrails in the auditorium, at aisles  
- two ramped sections of the auditorium floor proposing no handrails

*MB - grant no handrails for those two aisles*

*MT - second – carries*

- TH - proposing split center handrail at the back

*MT - grant as proposed*

*MB - second – carries*

33) Incoming: Marshfield High School, 167 Forest St., Marshfield (V12-119)

- TH - EXHIBIT 1 – variance application  
- stair handrails split

*MB - grant as proposed for split stair handrails*

*MT - second – carries*

- TH - seeking variance for the lack of handrails at the sloped aisles

*MB - grant as proposed for no handrails at the aisles*

*MT - second – carries*

- TH - 14.1, use of vertical wheelchair lift for access to the press box; do not require access to the filming platform, if you can do the same things from the press box location

*MB - grant as proposed*

*MT - second – carries*

34) Incoming: Somerset-Berkley Regional High School, 625 County Rd., Somerset (V12-117)

- TH - EXHIBIT – variance application  
- 14.1, for using a vertical wheelchair lift to the press box

*MB - grant as proposed for vertical access via a compliant lift*

*AB - second – carries*

- TH - 24.5, lack of handrails at the ramped aisles

*CS - grant 24.5*

*AB - second – carries*

*CS - grant handrails at stadium seating*

*MT - second – carries*

35) Incoming: Existing Stair in Malden, between House 306 and 312 Washington Street and Lyle St., Malden (V12-120)

TH - EXHIBIT – variance application  
- existing stairs up to Washington street from Wyoming Avenue, overcomes large height change  
- proposing to rebuild the stair  
- neighborhood benefit

*CS - grant the variance for 20.1*

*MB - second – carries*

TH - second request is to maintain the existing noncompliant handrails

*CS - deny the lack of compliant handrails*

*MB - second – carries*

36) Incoming: Middle School, 1103 Main St., Hingham (V12-116)

TH - EXHIBIT – variance application  
- new construction  
- seeking variance for lack of handrails at aisles

*CS - grant 24.5*

*MT - second – carries*

TH - variance for 27.4.1, handrails at center of stairs

*CS - grant as proposed for 27.4.1*

*MT - second - carries*

37) Discussion: Decisions and Minutes from April 26, 2012

MB - Somerville Decision needed a date for the decision  
- 3<sup>rd</sup> party review of the intersection need date for submittal

*MB - submit third party review by July 1, 2012*

*CS - accept the decisions and the minutes with the revision to the Somerville decision*

*AB - second – carries*

38) Incoming: Residential Building, 3-9 Columbia Terrace, Cambridge (V12-106)

TH - EXHIBIT – variance application  
- seeking to maintain the lock on the lift

*MB - can maintain the lock if it is with a keypad or fob, if their main entrance is locked*

*MT - second - carries*

39) Incoming: Steve's Restaurant, 316 Newbury St., Boston (V12-121)

- TH     - EXHIBIT – variance application  
          - state that they are spending \$40,000.00  
          - restaurant is at the first floor  
          - Greek restaurant  
          - up 40 inches from grade  
          - value of the space is \$196,240.00  
          - haven't yet talked to the building department about the proposed work

*MB     - continue for further information, regarding details of the cost*

*MT     - second - carries*

40) Incoming: Charlestown High School, 240 Medford St., Boston (V12-100)

- TH     - EXHIBIT – variance application  
          - replacement of electrical, mechanical and plumbing throughout the building  
          - spending over 30%  
          - seeking a variance for existing ramps that serve the school (24.3, width between handrails & 24.4.3, for distance between the landings)  
          - 3' 6", 3' 8", 3' 4"

*MB     - grant for 24.3, exc. cost without benefit*

*MT     - second – carries*

- TH     - landings are 4' instead of 5' and 44"

*MB     - grant for 24.4.3*

*CS     - second – carries*

- TH     - maintain on-street accessible parking space  
          - seeking variance to maintain

*CS     - no variance required for on-street parking*

*MB     - second - carries*

41) Incoming Discussion: Gannet House, Harvard Law School, 1511 Mass. Ave., Cambridge (V12-097)

- TH     - EXHIBIT     - variance application  
          - 2 doors that are shown on page 10  
          - door is on magnetic hold-open, no latch pull side

*MB     - grant*

*AB     - second – carries*

- TH     - Page 11, door on magnetic hold open, variance #2

*MB     - grant*

*MT     - second – carries*

- TH     - variance #3, relief for winder treads

*MB* - grant, based on tech. infeasibility and historic restoration

*AB* - second – carries

TH - variance #4, same issue, second winder set

*MB* - grant, based on tech. infeasibility and historic restoration

*AB* - second – carries

TH - variance #5 & 6 handrails

*MB* - grant

*MT* - second – carries

42) Incoming Discussion: Fuller Craft Museum, 455 Oak St., Brockton (V12-096)

TH - previously presented, continued because needed to know size of the platform of the lift  
- 46” x 34”, can’t make shaft larger for the platform of the lift  
- work performed issue

*MB* - grant based on tech. infeasibility

*RG* - second – carries with CS opposed

TH - proposing an alternate accessible entrance that appeared to be 42” x 60” lift to get over 5 steps to get into the building

*MB* - accept the plan

*MT* - second – carries

43) Incoming: Curb cuts and sidewalks, Mason St., Boston (C07-085)

TH - been under stipulated order to comply by 11/15/09  
- sent a follow-up letter to get photos of the compliant work  
- received letter from Para Jayasinghe and another member of Public Works stating that the work will be done by 11/15/12 at the latest  
- current situation on Mason St., is the result of the work at the Opera House and Millennium Place for the compliant sidewalks

*MB* - grant until 11/15/12 as requested, however if not complete by said date, a fine hearing will be scheduled

*CS* - second – carries

44) Incoming: St. Peter’s Episcopal Church, 421 Wianno Ave., Osterville (V12-110)

TH - EXHIBIT – variance application  
- new addition to 109 year old church  
- addition in 1980, new addition now to parish hall  
- spent over 30%  
- one variance to main entrance  
- 16.1 access to altar and chancel  
- 20.11.1a, 2 accessible egresses  
- 28.1 time variance for elevator install

- 30.1 for toilet rooms at the basement, proposing new accessible toilet rooms at the basement
- trussing system was inspected and found multiple structural issues that has led to triggering the 30% rule

*CS* - *schedule hearing*

*MB* - *second - carries*

- End of Meeting -